IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 10428 of 2005

Between:

A. Rahman S/o.Abdul Jabbar,
Nagarkurnool Bus Depot, Mahaboobnagar Dist.

..... PETITIONER

AND

The Depot Manager, APSRTC, Nagarkurnool Bus Depot, Mahabubnagar Dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring that the action of the respondent in imposing the punishment of deferment of my annual increment for a period of 2 years with cumulative effect which shall have the effect on my future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and also contrary to the judgments of this Hon'ble court and apex court by setting aside the order in 01/2(11)/97-NGKL dated 20-1-1998 in so far as the determent of increments is concerned and consequently direct the respondent to add the increment which was deferred.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY, S.C. for A.P.S.R.T.C.

The Court made the following :

ORAL ORDER:

Questioning the penalty imposed by the respondent on the petitioner withholding annual increments for a period of two years with cumulative effect by issuing the Proceedings No.01/2(11)/97-NGKL, dated 20.1.1998, this writ petition is filed.

The learned counsel for the petitioner has contended that without conducting any enquiry, major penalty has been imposed on the petitioner and therefore, the impugned proceedings are liable to be set aside.

On the other hand, the learned standing counsel for the respondent has contended that the penalty was imposed in the year 1998 and therefore, there are no grounds to interfere with the impugned proceedings.

For certain irregularities said to have been committed by the petitioner, a charge sheet dated 27.12.1997 was issued to him and he gave an explanation to it. As the explanation was not satisfactory, the disciplinary authority imposed a major penalty of deferment of annual increments for a period of two years with cumulative effect. Imposing a major penalty without conducting regular departmental enquiry cannot be sustained under law. Admittedly, no regular departmental enquiry was conducted in this case. Though it is a matter to be remitted to the disciplinary authority for passing appropriate orders, the learned counsel appearing for the petitioner

requested this Court to modify the major penalty imposed by the respondent to that of a minor penalty. As the alleged irregularities took place in 1997, at this point of time, it is not desirable to remit back the matter to the disciplinary authority for conducting any regular departmental enquiry and further more, the petitioner has requested to impose a minor penalty. Therefore, the penalty can be modified in view of the peculiar facts and circumstances of the case.

In the result, the writ petition is disposed of modifying the penalty of deferment of annual increments for a period of two years with cumulative effect to that of deferment of annual increments for a period of two years without cumulative effect. In the circumstances of the case, there shall be no order as to costs. By virtue of this order, petitioner is not entitled for monetary benefits.

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(K.C. BHANU, J.)

29th April, 2005

bcj

To

1 The Depot Manager, APSRTC, Nagarkurnool Bus Depot, Mahabubnagar Dist.

2) 2 CD copies

3) 1 CC to MR.VENKATESWAR RAO